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PROCEDURE INSTRUCTION LETTER NO. I16-V-01

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SUBJECT: Reissue of I12-V-03 and I12-IV-04 - Use of Digital Cameras and
the Storage and Preservation of Digital Images

Scope

This Procedure Instruction Letter (PIL) is intended for Mine Safety and Health Administration (MSHA) personnel who conduct inspections or investigations and maintain inspection or investigation documentation. This PIL replaces PIL No.s I12-V-03 and I12-IV-04, issued March 23, 2012.

Purpose

This PIL provides guidance and instructions to MSHA personnel who use digital cameras during their inspections or investigations and maintain digital images, including photographs and videos, taken during inspections or investigations as part of their documentation.

Procedure Instructions

Authorizing the Use of Digital Cameras -- In addition to other forms of documentation, digital images of violations and accident scenes are of great assistance in documenting violations or other conditions during an inspection or investigation.

Digital images and/or videos can significantly contribute to resolving differences of opinion between mine operators and MSHA personnel. The digital images and/or videos should accurately and effectively depict conditions or objects present during the investigation or inspection and subsequent abatement. This information can be invaluable during informal discussions and safety and health conferences. Such images may also expedite judicial proceedings by providing a pictorial illustration of a violation and its abatement/termination or an accident scene.

Accordingly, the use of MSHA-provided digital cameras is encouraged, and cameras should be used during any inspection or investigation, whenever practical, subject to the following restrictions:

1. Underground coal mines and gassy underground metal and nonmetal mines where permissible equipment is required. *Only cameras approved by MSHA's Approval and Certification Center (A&CC), when available, shall be used. Until then, the possession or use of cameras inby the last open crosscut, or within 150 feet of pillar workings or longwall face, or the use of cameras in return entries, or bleeder entries is prohibited unless approved by the District Manager.*
2. Gilsonite mines. *The possession or use of cameras is prohibited.*
3. Explosives storage magazines, loaded explosives vehicles, and explosives loading areas. *The possession or use of cameras is prohibited within 25 feet.*

Note - This prohibition does not include facilities, magazines, or vehicles storing Ammonium Nitrate Fuel Oil (ANFO).

4. Flammable material storage or use areas and areas of coal handling facilities which are Class I or Class II Hazardous Locations (explosive dusts or gasses) as outlined in the National Electrical Code. *The use of cameras is prohibited.*

Taking Digital Photographs and Images -- MSHA personnel should use government-issued cameras only. The use of personal cell phones for the purpose of taking photographs or videos during the course of official duties is not permitted. Digital photographs must clearly and accurately depict the nature of the violation or condition. Where appropriate, photographs of abatement or termination measures should also be taken. Before photographs are taken, ensure that the camera is set to the correct date and time. If the camera has audio capability, it should be turned off so that voices are not recorded, unless all persons are explicitly notified that their statements are being recorded.

To be most effective, a violation or condition should be captured with both an "up close" shot and a distance shot to provide perspective and points of view.

The photograph should depict a miner's potential for exposure to the hazard or violation of the standard. As a rule of thumb, no more than two or three good photographs are necessary to illustrate a violation and its resolution. Too many photographs can become an administrative burden.

When taking a video recording, begin at a distance and "zoom in" to provide greater detail of particular features. When panning an area, move the camera slowly enough to permit viewers to observe relevant details and attempt to minimize camera movement. Additional, digital memory cards may be needed to assure sufficient storage capacity if both videos and photographs are taken.

If others in the inspection/investigation party are taking photographs, the identity of the individual and his/her affiliation should be recorded in the inspection/investigation notes.

At no time should MSHA personnel put themselves or others at risk or ask miners to reenact practices in order to obtain photographs. MSHA personnel should not photograph conditions that pose an imminent danger before taking actions necessary to prevent miners from being exposed to the hazard.

Preserving Digital Photographs and Images – All photographs **taken** during an inspection or investigation **must be retained**. Images from digital photographs should be saved to a CD or DVD in the same file format (normally JPEG with moderate compression) and at the same resolution as they were originally captured by the camera. Once the digital images are effectively and reliably stored on a CD or DVD, the images may be deleted from the camera's digital memory card. Original digital images should not be modified or edited. Even when photographs are produced, the digital images should be stored on a CD or DVD and the CD or DVD must be maintained in the mine inspection/investigation file or as part of the inspection report.

Inspectors may be called to testify to the chain of custody when the pictures are introduced during a hearing. Therefore, for each digital image, the inspection/investigation notes or the Photo Mounting Worksheet (MSHA Form 4000-125) should document: (a) the person who took the photograph when more than one inspector/investigator was involved in the inspection/investigation; (b) the date and time the photograph was taken; (c) the location of the condition or object; (d) a brief description of image(s) captured; and (e) the person who transferred the digital image to the CD or DVD. All enforcement actions, inspector notes, and digital images associated with an inspection or an investigation should be provided to the Office of the Solicitor or a Conference and Litigation Representative (CLR) once a matter has been referred to the Federal Mine Safety and Health Review Commission or any other judicial body.

Background

MSHA policies concerning the use of cameras traditionally have been developed by individual MSHA District Offices or incorporated into PILs that generally address the collection and preservation of information during an inspection or an investigation. However, as the cost of cameras has decreased and digital photography permits images to be more easily and effectively captured and stored, MSHA recognizes the importance of guidance and instruction specific to the use of digital cameras and to the storage/preservation of digital images.

Authority

Sections 103(a) and 110(h) of the Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. § 876.

Internet Availability

This PIL is viewable on the Internet by accessing MSHA's Home Page (<http://www.msha.gov/>) and then choosing "Regulations", "Policy and Procedures", and "Procedure Instruction Letters."

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